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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,263	07/05/2000	Satoshi Kume	31671-164489RK	5002

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Venable
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EXAMINER

TRAN, LOUIS B

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 01/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/610,263

Applicant(s)

KUME ET AL.

Examiner

Louis B Tran

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-8 and 10-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 2-4, 6-8 and 10-16 is/are rejected.
- 7) ☒ Claim(s) 5 and 10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07/05/00 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the paper layer and sealing tape claimed in claims 2, 8, 10, and 14 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show "section 1n" on page 13, line 12, as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Information Disclosure Statement

3. The information disclosure statement filed on 07/05/2000 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent

listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Objections

4. Claim 10 is objected to because of the following informalities: Applicant claims dependence on a canceled claim 9. It is noted that claim 16 may have been the intended claim for reference. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 states "sealing is ultrasonic sealing with a fluid" which implies that the sealing that occurs is completed by a fluid. In light of the specification and drawings, it is noted that the sealing is completed by an ultrasonic horn and opposing jaw applied to a container containing a fluid. Clarification is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Sawa et al. (4,759,170).

Sawa et al. discloses an ultrasonic sealing apparatus in which a laminated packaging material containing thermoplastic is formed into a tubular form and the tubular material is transversely ultrasonically sealed by an apparatus comprising of a horn with an elongated and flat sealing face and an opposing jaw as seen in Figure 1. The opposing jaw is disclosed as having an elongated pressing face that presses the packaging material in cooperation with the sealing face of the horn and having a center portion and two end portion wherein the center portion is narrower than both end portions as seen in Figure 2 (A) items 12, 13, and 17.

In reference to claim 3, Sawa anticipates an ultrasonic sealing apparatus wherein the transverse ultrasonic sealing is applied to a package containing a fluid as described in column 1, line 8, of Sawa et al.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2, 4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawa et al. in view of Bosche et al. (4,159,220).

In reference to claim 2, Sawa et al. does not show a laminated packaging material that contains a paper layer; however, Bosche et al. anticipates the concept of thermoplastic laminate material containing a paper layer shown in Figure 1 (Bosche et al.) for the purposes of moisture proofing and heat and pressure adhesive means described in column 1, line 20, of Bosche et al.

With respect to claim 4, Sawa et al. does not disclose a center portion length that is longer than a length of a longitudinally sealed three-ply portion of the tubular packaging material under a pressed state; however, Bosche et al. discloses a center portion length that is longer than a length of a sealed three-ply portion of packaging material shown in Figure 2 for the purposes of accommodating the overlapped layers discussed in column 7, line 45, of Bosche et al.

With respect to claim 6, Sawa et al. does not disclose a narrow center portion having a recess formed along a direction perpendicular to the longitudinal direction of the pressing face; however, Bosche et al. discloses a recess formed along a direction perpendicular to the longitudinal direction of the pressing face as seen in Figure 2 for the purposes of providing a tighter seal by accommodating the seal contour as stated in column 7, line 45.

In reference to claim 7, Sawa et al. does not disclose a center portion having a recess formed as an arc shape; however, Bosche et al. discloses a

recess which is defined as an indentation or small hollow. Therefore, Sawa et al. in view of Bosche et al. anticipates a recess that can include the shape of an arc.

Therefore, it would have been obvious to one having ordinary skill in the art to provide Sawa's device with Bosche's improvements in order to provide moisture proofing and a tighter seal.

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sawa et al. in view of Nakanose (3,962,508).

With respect to claim 8, Sawa et al. does not disclose a resin tape for sealing and creating the tubular form and only discloses the fusing of thermoplastic to form a seal; however, Nakanose discloses the common use of thermoplastic resin tape for packaging purposes in column 1, line 10.

Because resin tape is well known in the art, it would have been obvious to one of ordinary skill in the art to provide Sawa's device with Nakanose's thermoplastic resin tape in order to provide a means for sealing the thermoplastic material.

12. Claims 16, 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawa et al. (4,759,170) in view of Bosche et al. (4,159,220).

With respect to claim 16, Sawa et al. discloses an ultrasonic sealing apparatus in which a laminated packaging material containing thermoplastic is formed into a tubular form and the tubular material is transversely ultrasonically sealed by an apparatus comprising of a horn with an elongated and flat sealing face and an opposing jaw as seen in Figure 1 of Sawa et al. The opposing jaw is disclosed as having an elongated pressing face that presses the packaging

material in cooperation with the sealing face of the horn and having a center portion and two end portion wherein the center portion is narrower than both end portions as seen in Figure 2 (A) items 12, 13, and 17.

Sawa et al. does not show a recess formed in a center portion of the elongated pressing face being formed along a direction perpendicular to the longitudinal direction of the pressing face.

However, Bosche et al. discloses a recess formed along a direction perpendicular to the longitudinal direction of the pressing face as seen in Figure 2 for the purposes of providing a tighter seal by accommodating the seal contour as stated in column 7, line 45 of Bosche et al.

Therefore, it would have been obvious for one having ordinary skill in the art to provide Sawa's device with a recess in order to create a tighter seal.

With respect to claim 10, Sawa et al. in view of Bosche et al. anticipates the concept of thermoplastic laminate material containing a paper layer shown in Figure 1 (Bosche et al.) for the purposes of moisture proofing and heat and pressure adhesive means described in column 1, line 20, of Bosche et al.

In reference to claim 11, Sawa et al. in view of Bosche et al. anticipates an ultrasonic sealing apparatus wherein the transverse ultrasonic sealing is applied to a package containing a fluid as described in column 1, line 8, of Sawa et al.

In reference to claim 12, Sawa et al. in view of Bosche et al. discloses a center portion length that is longer than a length of a sealed three-ply portion of packaging material shown in Figure 2 of Bosche for the purposes of

accommodating the overlapped layers discussed in column 7, line 45, of Bosche et al.

In reference to claim 13, Sawa et al. in view of Bosche et al. discloses a recess which is defined as an indentation or small hollow. Therefore, Sawa et al. in view of Bosche et al. anticipates a recess that can be in the shape of an arc.

13. Claim 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Sawa et al. in view of Bosche et al. as applied to claims 16, 10-13 above, and further in view of Nakanose (3,962,508).

Nakanose discloses the common use of thermoplastic resin tape for packaging purposes in column 1, line 10.

Because resin tape is well known in the art, it would have been obvious to one of ordinary skill in the art to provide Sawa et al. in view of Bosche et al. with thermoplastic resin tape in order to provide a means for sealing the thermoplastic material.

Allowable Subject Matter

14. Claim 5 objected to as being dependent upon a rejected base claim 15, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

15. The prior art made of record and not relied upon but is considered pertinent to applicant's disclosure are Bomer et al., Martin, Christine, Giacomelli


et al.(5,775,055), Boeckmann, Hayashi et al., Giacomelli et al. (5,890,347), Fukushima et al., Bachner, and Tsuchiya et al.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis B Tran whose telephone number is 703-305-0611. The examiner can normally be reached on Monday-Friday, 8 A.M.-5 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

lbt
January 23, 2002



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700